

103^D CONGRESS
1ST SESSION

H. R. 2246

To amend the Internal Revenue Code of 1986 to provide tax incentives
to encourage development in certain border areas.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1993

Mr. ANDREWS of Texas (for himself and Mr. COLEMAN) introduced the
following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
tax incentives to encourage development in certain border
areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this Act an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Internal Revenue Code
9 of 1986.

1 **SEC. 2. DESIGNATION AND TREATMENT OF BORDER**
 2 **EMPOWERMENT ZONES AND BORDER ENTER-**
 3 **PRISE COMMUNITIES.**

4 (a) IN GENERAL.—Chapter 1 (relating to normal
 5 taxes and surtaxes) is amended by inserting after sub-
 6 chapter T the following new subchapter:

7 **“Subchapter U—Designation and Treatment**
 8 **of Border Empowerment Zones and Bor-**
 9 **der Enterprise Communities**

“Part I. Designation.

“Part II. Incentives for border empowerment zones and border
 enterprise communities.

“Part III. Additional incentives for border empowerment zone.

“Part IV. Regulations.

10 **“PART I—DESIGNATION**

“Sec. 1391. Designation procedure.

“Sec. 1392. Eligibility criteria.

“Sec. 1393. Definitions and special rules.

11 **“SEC. 1391. DESIGNATION PROCEDURE.**

12 “(a) IN GENERAL.—From among the border areas
 13 nominated for designation under this section, the appro-
 14 priate Secretaries may, in consultation with the Enterprise
 15 Board, designate 1 border empowerment zone and 5 bor-
 16 der enterprise communities.

17 “(b) PERIOD DESIGNATIONS MAY BE MADE.—A des-
 18 ignation may be made under this section only after 1993
 19 and before 1996.

20 “(c) PERIOD FOR WHICH DESIGNATION IS IN EF-
 21 FECT.—

1 “(1) IN GENERAL.—Any designation under this
2 section shall remain in effect during the period be-
3 ginning on the date of the designation and ending
4 on the earliest of—

5 “(A) the close of the 10th calendar year
6 beginning on or after such date of designation,

7 “(B) the termination date designated by
8 the State and local governments as provided for
9 in their nomination, or

10 “(C) the date the appropriate Secretary re-
11 vokes the designation.

12 “(2) REVOCATION OF DESIGNATION.—

13 “(A) IN GENERAL.—The appropriate Sec-
14 retary, in consultation with the Enterprise
15 Board, may revoke the designation under this
16 section of an area if such Secretary determines
17 that the local government or the State in which
18 it is located—

19 “(i) has modified the boundaries of
20 the area, or

21 “(ii) is not complying substantially
22 with, or fails to make progress in achieving
23 the benchmarks set forth in, the strategic
24 plan under subsection (e)(2).

1 “(B) APPLICABLE PROCEDURES.—A des-
2 ignation may be revoked by the appropriate
3 Secretary under subparagraph (A) only after a
4 hearing on the record involving officials of the
5 State or local government involved.

6 “(d) LIMITATIONS ON DESIGNATIONS.—An area may
7 be designated under subsection (a) only if—

8 “(1) the area is a border area,

9 “(2) the area is nominated by 1 or more local
10 governments and the State or States in which it is
11 located for designation under this section,

12 “(3) such State or States and the local govern-
13 ments have the authority—

14 “(A) to nominate the area for designation
15 under this section, and

16 “(B) to provide the assurances described in
17 paragraph (4),

18 “(4) such State or States and the local govern-
19 ments provide written assurances satisfactory to the
20 appropriate Secretary that the strategic plan de-
21 scribed in the application under subsection (e)(2) for
22 such area will be implemented,

23 “(5) the appropriate Secretary determines that
24 any information furnished is reasonably accurate,
25 and

1 “(6) such State or States and local govern-
2 ments certify that no portion of the area nominated
3 is already included in an area designated under this
4 section or in an area otherwise nominated to be des-
5 ignated under this section.

6 “(e) APPLICATION.—An application for designation
7 as a border empowerment zone or as a border enterprise
8 community shall—

9 “(1) demonstrate that the nominated area sat-
10 isfies the eligibility criteria described in section
11 1392,

12 “(2) include a strategic plan for accomplishing
13 the purposes of this subchapter that—

14 “(A) describes the coordinated economic,
15 human, community, and physical development
16 plan and related activities proposed for the
17 nominated area,

18 “(B) describes the process by which the af-
19 fected community is a full partner in the proc-
20 ess of developing and implementing the plan
21 and the extent to which local institutions and
22 organizations have contributed to the planning
23 process,

24 “(C) identifies the amount of State, local,
25 and private resources that will be available in

1 the nominated area and the private/public part-
2 nerships to be used, which may include partici-
3 pation by, and cooperation with, universities,
4 medical centers, and other private and public
5 entities,

6 “(D) identifies the funding requested
7 under any Federal program in support of the
8 proposed economic, human, community, and
9 physical development and related activities,

10 “(E) identifies baselines, methods, and
11 benchmarks for measuring the success of carry-
12 ing out the strategic plan, including the extent
13 to which poor persons and families will be em-
14 powered to become economically self-sufficient,

15 “(F) contains a plan for—

16 “(i) providing water and wastewater
17 services to a substantial portion of any
18 substandard residential subdivisions in the
19 nominated area which lack such services,

20 “(ii) restraining the construction of
21 substandard housing on undeveloped par-
22 cels within any existing substandard resi-
23 dential subdivisions in the nominated area,
24 and

1 “(iii) restraining the proliferation of
2 substandard residential subdivisions within
3 the nominated area, and

4 “(G) does not include any action to assist
5 any establishment in relocating from one area
6 within the United States and outside the nomi-
7 nated area to the nominated area, except that
8 assistance for the expansion of an existing busi-
9 ness entity through the establishment of a new
10 branch, affiliate, or subsidiary is permitted if—

11 “(i) the establishment of the new
12 branch, affiliate, or subsidiary will not re-
13 sult in a decrease in employment in the
14 area of original location or in any other
15 area where the existing business entity
16 conducts business operations, and

17 “(ii) there is no reason to believe that
18 the new branch, affiliate, or subsidiary is
19 being established with the intention of clos-
20 ing down the operations of the existing
21 business entity in the area of its original
22 location or in any other area where the ex-
23 isting business entity conducts business
24 operations, and

1 “(3) include such other information as may be
2 required by the appropriate Secretary or the Enter-
3 prise Board.

4 **“SEC. 1392. ELIGIBILITY CRITERIA.**

5 “(a) IN GENERAL.—A nominated area shall be eligi-
6 ble for designation under section 1391 only if it meets the
7 following criteria:

8 “(1) LACK OF INFRASTRUCTURE.—The popu-
9 lation of the counties in which the nominated area
10 is located increased (as determined by the most re-
11 cent census data available) by 18 percent or more
12 between 1980 and 1990, without a corresponding ex-
13 pansion of basic infrastructure such as water and
14 wastewater services, and not less than 20 percent of
15 the population residing within the nominated area
16 resides in substandard residential subdivisions.

17 “(2) DISTRESS.—The nominated area is one of
18 pervasive poverty, unemployment, and general dis-
19 tress.

20 “(3) SIZE.—The nominated area—

21 “(A) does not exceed 1,000 square miles,

22 “(B) has a boundary which is continuous,
23 or, except in the case of an area located in more
24 than 1 State, consists of not more than 3 non-
25 contiguous parcels,

1 “(C) is located entirely within no more
2 than 3 contiguous States, and

3 “(D) does not include any portion of a
4 central business district (as such term is used
5 for purposes of the most recent Census of Re-
6 tail Trade) unless the poverty rate for each
7 population census tract in such district is not
8 less than 35 percent (30 percent in the case of
9 an enterprise community).

10 “(4) POVERTY RATE.—The poverty rate—

11 “(A) for each population census tract with-
12 in the nominated area is not less than 20 per-
13 cent,

14 “(B) for at least 90 percent of the popu-
15 lation census tracts within the nominated area
16 is not less than 25 percent, and

17 “(C) for at least 50 percent of the popu-
18 lation census tracts within the nominated area
19 is not less than 35 percent.

20 “(b) SPECIAL RULES RELATING TO DETERMINATION
21 OF POVERTY RATE.—For purposes of subsection (a)(4)—

22 “(1) TREATMENT OF CENSUS TRACTS WITH
23 SMALL POPULATIONS.—

1 “(A) TRACTS WITH NO POPULATION.—In
2 the case of a population census tract with no
3 population—

4 “(i) such tract shall be treated as hav-
5 ing a poverty rate which meets the require-
6 ments of subparagraphs (A) and (B) of
7 subsection (a)(4), but

8 “(ii) such tract shall be treated as
9 having a zero poverty rate for purposes of
10 applying subparagraph (C) thereof.

11 “(B) TRACTS WITH POPULATIONS OF LESS
12 THAN 2,000.—A population census tract with a
13 population of less than 2,000 shall be treated as
14 having a poverty rate which meets the require-
15 ments of subparagraphs (A) and (B) of sub-
16 section (a)(4) if more than 75 percent of such
17 tract is zoned for commercial or industrial use.

18 “(2) DISCRETION TO ADJUST REQUIRE-
19 MENTS.—Where necessary to carry out the purposes
20 of this subchapter, the appropriate Secretary may
21 reduce by 5 percentage points one of the following
22 thresholds for not more than 10 percent of the popu-
23 lation census tracts (or, if fewer, 5 population cen-
24 sus tracts) in the nominated area:

1 “(A) The 20 percent threshold in sub-
2 section (a)(4)(A).

3 “(B) The 25 percent threshold in sub-
4 section (a)(4)(B).

5 “(C) The 35 percent threshold in sub-
6 section (a)(4)(C).

7 If the appropriate Secretary elects to reduce the
8 threshold under subparagraph (C) for a border en-
9 terprise community, such Secretary may (in lieu of
10 applying the preceding sentence) reduce by 10 per-
11 centage points the threshold under subparagraph
12 (C) for 3 population census tracts.

13 “(3) EACH NONCONTIGUOUS AREA MUST SAT-
14 ISFY POVERTY RATE RULE.—A nominated area may
15 not include a noncontiguous parcel unless such par-
16 cel separately meets (subject to paragraphs (1) and
17 (2)) the criteria set forth in subsection (a)(4).

18 “(4) AREAS NOT WITHIN CENSUS TRACTS.—In
19 the case of an area which is not tracted for popu-
20 lation census tracts, the equivalent county divisions
21 (as defined by the Bureau of the Census for pur-
22 poses of defining poverty areas) shall be used for
23 purposes of determining poverty rates.

24 “(c) FACTORS TO CONSIDER.—From among the
25 nominated areas eligible for designation under section

1 1391 by the appropriate Secretary, such appropriate Sec-
 2 retary shall make designations of the border empowerment
 3 zone and border enterprise communities on the basis of—

4 “(1) the effectiveness of the strategic plan sub-
 5 mitted pursuant to section 1391(e)(2) and the as-
 6 surances made pursuant to section 1391(d)(3), and

7 “(2) criteria specified by the Enterprise Board.

8 **“SEC. 1393. DEFINITIONS AND SPECIAL RULES.**

9 “(a) IN GENERAL.—For purposes of this sub-
 10 chapter—

11 “(1) APPROPRIATE SECRETARY.—The term ‘ap-
 12 propriate Secretary’ means—

13 “(A) the Secretary of Housing and Urban
 14 Development in the case of any nominated area
 15 which is located in an urban area,

16 “(B) the Secretary of Agriculture in the
 17 case of any nominated area which is located in
 18 a rural area, and

19 “(C) the Secretary of the Interior in the
 20 case of any nominated area which is located in
 21 an Indian reservation.

22 “(2) ENTERPRISE BOARD.—The term ‘Enter-
 23 prise Board’ means any board hereafter established
 24 and designated for purposes of this subchapter as
 25 the ‘Enterprise Board’.

1 “(3) RURAL AREA.—The term ‘rural area’
2 means any area which is—

3 “(A) outside of a metropolitan statistical
4 area (within the meaning of section
5 143(k)(2)(B)), or

6 “(B) determined by the Secretary of Agri-
7 culture, after consultation with the Secretary of
8 Commerce, to be a rural area.

9 “(4) URBAN AREA.—The term ‘urban area’
10 means an area which is not a rural area.

11 “(5) INDIAN RESERVATION.—

12 “(A) IN GENERAL.—The term ‘Indian res-
13 ervation’ means a reservation as defined in—

14 “(i) section 3(d) of the Indian Financ-
15 ing Act of 1974 (25 U.S.C. 1452(d)), or

16 “(ii) section 4(10) of the Indian Child
17 Welfare Act of 1978 (25 U.S.C.
18 1903(10)).

19 “(B) GOVERNMENTS.—In the case of an
20 area in an Indian reservation, the reservation
21 governing body (as determined by the Secretary
22 of the Interior) shall be deemed to be both the
23 State and local governments with respect to
24 such area.

1 “(6) BORDER AREA.—The term ‘border area’
2 means an area which is located in one or more coun-
3 ties each of which is located adjacent to an inter-
4 national border.

5 “(7) SUBSTANDARD RESIDENTIAL SUBDIVI-
6 SION.—The term ‘substandard residential subdivi-
7 sion’ means a residential area—

8 “(A) which at the time it was first occu-
9 pied by a substantial number of residents,
10 lacked basic infrastructure such as water or
11 wastewater services, and

12 “(B) the residents of which are exposed to
13 greatly increased health risks by reason of liv-
14 ing conditions in such residential area or in
15 nearby residential areas.

16 In determining whether the condition of subpara-
17 graph (B) is met, the Secretary of Housing and
18 Urban Development shall take into account data re-
19 garding communicable disease rates, studies by
20 qualified engineering firms, and other relevant fac-
21 tors.

22 “(8) LOCAL GOVERNMENT.—The term ‘local
23 government’ means—

1 “(A) any county, city, town, township, par-
2 ish, village, or other general purpose political
3 subdivision of a State,

4 “(B) any limited purpose political subdivi-
5 sion of a State which is involved in the plan de-
6 scribed in section 1391(e)(2)(F), and

7 “(C) any combination of political subdivi-
8 sions described in subparagraphs (A) and (B)
9 recognized by the appropriate Secretary.

10 “(9) NOMINATED AREA.—The term ‘nominated
11 area’ means an area which is nominated by 1 or
12 more local governments and the State or States in
13 which it is located for designation under section
14 1391.

15 “(10) GOVERNMENTS.—If more than 1 State or
16 local government seeks to nominate an area under
17 this part, any reference to, or requirement of, this
18 subchapter shall apply to all such governments.

19 “(11) SPECIAL RULE.—An area shall be treated
20 as nominated by a State and a local government if
21 it is nominated by such other entity as may be speci-
22 fied by the Enterprise Board.

23 “(12) USE OF CENSUS DATA.—Population and
24 poverty rate shall be determined by the most recent
25 decennial census data available.

1 “(b) BORDER EMPOWERMENT ZONE; BORDER EN-
 2 TERPRISE COMMUNITY.—For purposes of this title, the
 3 terms ‘border empowerment zone’ and ‘border enterprise
 4 community’ mean areas designated as such under section
 5 1391.

6 **“PART II—INCENTIVES FOR BORDER**
 7 **EMPOWERMENT ZONES AND BORDER EN-**
 8 **TERPRISE COMMUNITIES**

“Sec. 1394. Incentives.

9 **“SEC. 1394. INCENTIVES.**

10 “(a) INCREASE IN LOW INCOME HOUSING CREDIT.—
 11 For purposes of section 42(d)(5)(C), a building shall be
 12 treated as located in a qualified census tract if—

13 “(1) such building is located in a census tract
 14 having a poverty rate of at least 30 percent (deter-
 15 mined in accordance with section 1393(a)(10)), and

16 “(2) such building is located in a border
 17 empowerment zone or border enterprise community.

18 “(b) TAX EXEMPT ENTERPRISE ZONE FACILITY
 19 BONDS.—

20 “(1) IN GENERAL.—For purposes of part IV of
 21 subchapter B of chapter 1 (relating to tax exemption
 22 requirements for State and local bonds), the term
 23 ‘exempt facility bond’ includes any bond issued as
 24 part of an issue 95 percent or more of the net pro-

ceeds (as defined in section 150(a)(3)) of which are to be used to provide any enterprise zone facility.

“(2) ENTERPRISE ZONE FACILITY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘enterprise zone facility’ means any qualified zone property the principal user of which is an enterprise zone business (as defined in section 1399B), and any land which is functionally related and subordinate to such property.

“(B) QUALIFIED ZONE PROPERTY.—The term ‘qualified zone property’ has the meaning given such term by section 1399(c); except that—

“(i) section 1399(c)(3) shall not apply, and

“(ii) the references to a border empowerment zone shall be treated as including references to border enterprise communities.

“(3) LIMITATION ON AMOUNT OF BONDS.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any issue if the aggregate amount of outstanding enterprise zone facility bonds al-

1 locable to any enterprise zone business (taking
2 into account such issue) exceeds—

3 “(i) \$3,000,000 with respect to any 1
4 border empowerment zone or border enter-
5 prise community, or

6 “(ii) \$20,000,000 with respect to the
7 border empowerment zone and all border
8 enterprise communities.

9 “(B) AGGREGATE ENTERPRISE ZONE FA-
10 CILITY BOND BENEFIT.—For purposes of sub-
11 paragraph (A), the aggregate amount of out-
12 standing enterprise zone facility bonds allocable
13 to any business shall be determined under rules
14 similar to the rules of section 144(a)(10), tak-
15 ing into account only bonds to which paragraph
16 (1) applies.

17 “(4) ACQUISITION OF LAND AND EXISTING
18 PROPERTY PERMITTED.—The requirements of sec-
19 tions 147(c)(1)(A) and 147(d) shall not apply to any
20 bond described in paragraph (1).

21 “(5) PARTIAL EXEMPTION FROM VOLUME
22 CAP.—Only for purposes of section 146, the term
23 ‘private activity bond’ shall not include 50 percent of
24 any bond issued as part of an issue described in
25 paragraph (1).

1 “(6) PENALTY FOR CEASING TO MEET RE-
2 QUIREMENTS.—

3 “(A) FAILURES CORRECTED.—An issue
4 which fails to meet 1 or more of the require-
5 ments of paragraphs (1) and (2) shall be
6 treated as meeting such requirements if—

7 “(i) the issuer and any principal user
8 in good faith attempted to meet such re-
9 quirements, and

10 “(ii) any failure to meet such require-
11 ments is corrected within a reasonable pe-
12 riod after such failure is first discovered.

13 “(B) LOSS OF DEDUCTIONS WHERE FACIL-
14 ITY CEASES TO BE QUALIFIED.—No deduction
15 shall be allowed under this chapter for interest
16 on any financing provided from any bond to
17 which paragraph (1) applies with respect to any
18 facility to the extent such interest accrues dur-
19 ing the period beginning on the first day of the
20 calendar year which includes the date on
21 which—

22 “(i) substantially all of the facility
23 with respect to which the financing was
24 provided ceases to be used in an border

1 empowerment zone or border enterprise
2 community, or

3 “(ii) the principal user of such facility
4 ceases to be an enterprise zone business
5 (as defined in section 1399B, but treating
6 references to the border empowerment
7 zones as including references to border en-
8 terprise communities).

9 “(C) EXCEPTION IF ZONE CEASES.—Sub-
10 paragraphs (A) and (B) shall not apply solely
11 by reason of the termination or revocation of a
12 designation as a border empowerment zone or a
13 border enterprise community.

14 “(D) EXCEPTION FOR BANKRUPTCY.—
15 Subparagraphs (A) and (B) shall not apply to
16 any cessation resulting from bankruptcy.

17 “(c) ENTERPRISE ZONE FACILITY BONDS NOT SUB-
18 JECT TO INTEREST DEDUCTION LIMITATIONS ON FINAN-
19 CIAL INSTITUTIONS.—Any tax-exempt bond described in
20 subsection (b)(1)—

21 “(1) shall be treated as acquired before August
22 8, 1986, for purposes of sections 265(b) and
23 291(e)(1)(B), and

1 “(2) shall not be taken into account in deter-
2 mining whether any issuer is a qualified small issuer
3 for purposes of section 265(b).

4 “(d) ADDITIONAL LOW-INCOME HOUSING CREDIT
5 AMOUNT.—

6 “(1) IN GENERAL.—Each State which includes
7 a border empowerment zone or border enterprise
8 community shall receive an additional State housing
9 credit ceiling amount for purposes of section 42 of
10 \$818,000 for each such zone or community.

11 “(2) ADDITIONAL AMOUNT MUST BE ALLO-
12 CATED TO BUILDINGS IN DESIGNATED AREAS.—

13 “(A) IN GENERAL.—The portion of the ad-
14 ditional amount received under paragraph (1)
15 by reason of any border empowerment zone or
16 border enterprise community which may be ap-
17 plied to increase the State housing credit ceiling
18 for any calendar year shall not exceed the lesser
19 of—

20 “(i) the unused portion of such addi-
21 tional amount with respect to such zone or
22 community, or

23 “(ii) the aggregate housing credit dol-
24 lar amount allocated from such ceiling for

1 such year to buildings located in such zone
2 or community.

3 “(B) UNUSED PORTION.—For purposes of
4 subparagraph (A), the unused portion for any
5 calendar year of the additional amount received
6 under paragraph (1) is the amount equal to the
7 excess of—

8 “(i) the additional amount received
9 under paragraph (1) by the State by rea-
10 son of the zone or community, over

11 “(ii) the aggregate of the increases in
12 the State housing credit ceiling by reason
13 of such amount for all prior calendar
14 years.

15 “(3) AVAILABILITY OF ADDITIONAL AMOUNT.—
16 None of the additional amount received under para-
17 graph (1) may be applied after 1996.

18 “(4) AREAS LOCATED IN MORE THAN 1
19 STATE.—In the case of a border empowerment zone
20 or border enterprise community which is located in
21 more than 1 State, the \$818,000 amount shall be al-
22 located among such States in proportion to the pop-
23 ulation of such zone or community which is within
24 each such State.

1 “(5) ZONES LOCATED IN CONSTITUTIONAL
 2 HOME RULE CITIES.—If any border empowerment
 3 zone or border enterprise community is located in a
 4 constitutional home rule city (as defined in section
 5 42(h)(4)(E)), the additional amount received under
 6 paragraph (1) shall be allocated to such city and
 7 shall not be taken into account in determining such
 8 city’s share of the State housing credit ceiling under
 9 section 42(h)(4)(E).

10 **“PART III—ADDITIONAL INCENTIVES FOR**
 11 **BORDER EMPOWERMENT ZONE**

 “SUBPART A. Empowerment zone employment credit.

 “SUBPART B. Zone resident empowerment savings credit.

 “SUBPART C. Depreciation and other incentives.

12 **“Subpart A—Empowerment Zone Employment Credit**

 “Sec. 1396. Empowerment zone employment credit.

 “Sec. 1397. Other definitions and special rules.

13 **“SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.**

14 “(a) AMOUNT OF CREDIT.—For purposes of section
 15 38, the amount of the empowerment zone employment
 16 credit determined under this section with respect to any
 17 employer for any taxable year is the applicable percentage
 18 of the qualified zone wages paid or incurred during the
 19 calendar year which ends with or within such taxable year.

20 “(b) APPLICABLE PERCENTAGE.—For purposes of
 21 this section, the term ‘applicable percentage’ means the

1 percentage determined in accordance with the following
2 table:

“In the case of wages paid or incurred during calendar year:	The applicable percentage is:
1994 through 2000	25
2001	20
2002	15
2003	10
2004	5

3 “(c) QUALIFIED ZONE WAGES.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘qualified zone wages’ means any
6 wages paid or incurred by an employer for services
7 performed by an employee while such employee is a
8 qualified zone employee.

9 “(2) ONLY FIRST \$20,000 OF WAGES PER YEAR
10 TAKEN INTO ACCOUNT.—With respect to each quali-
11 fied zone employee, the amount of qualified zone
12 wages which may be taken into account for a cal-
13 endar year shall not exceed \$20,000.

14 “(3) COORDINATION WITH TARGETED JOBS
15 CREDIT.—

16 “(A) IN GENERAL.—The term ‘qualified
17 zone wages’ shall not include wages taken into
18 account in determining the credit under section
19 51.

20 “(B) COORDINATION WITH PARAGRAPH
21 (2).—The \$20,000 amount in paragraph (2)
22 shall be reduced for any calendar year by the

1 amount of wages paid or incurred during such
2 year which are taken into account in determin-
3 ing the credit under section 51.

4 “(d) QUALIFIED ZONE EMPLOYEE.—For purposes of
5 this section—

6 “(1) IN GENERAL.—Except as otherwise pro-
7 vided in this subsection, the term ‘qualified zone em-
8 ployee’ means, with respect to any period, any em-
9 ployee of an employer if—

10 “(A) substantially all of the services per-
11 formed during such period by such employee for
12 such employer are performed within a border
13 empowerment zone in a trade or business of the
14 employer, and

15 “(B) the principal place of abode of such
16 employee while performing such services is
17 within such border empowerment zone.

18 “(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—
19 The term ‘qualified zone employee’ shall not in-
20 clude—

21 “(A) any individual described in subpara-
22 graph (A), (B), or (C) of section 51(i)(1),

23 “(B) any 5-percent owner (as defined in
24 section 416(i)(1)(B)),

1 “(C) any individual employed by the em-
2 ployer for less than 90 days,

3 “(D) any individual employed by the em-
4 ployer at any facility described in section
5 144(c)(6)(B), and

6 “(E) any individual employed by the em-
7 ployer in a trade or business the principal activ-
8 ity of which is farming (within the meaning of
9 subparagraphs (A) or (B) of section
10 2032A(e)(5)), but only if, as of the close of the
11 taxable year, the sum of—

12 “(i) the aggregate unadjusted bases
13 (or, if greater, the fair market value) of
14 the assets owned by the employer which
15 are used in such a trade or business, and

16 “(ii) the aggregate value of assets
17 leased by the employer which are used in
18 such a trade or business (as determined
19 under regulations prescribed by the Sec-
20 retary),

21 exceeds \$500,000.

22 “(3) SPECIAL RULES RELATED TO TERMI-
23 NATION OF EMPLOYMENT.—

24 “(A) IN GENERAL.—Paragraph (2)(C)
25 shall not apply to—

1 “(i) a termination of employment of
2 an individual who before the close of the
3 period referred to in paragraph (2)(C) be-
4 comes disabled to perform the services of
5 such employment unless such disability is
6 removed before the close of such period
7 and the taxpayer fails to offer reemploy-
8 ment to such individual, or

9 “(ii) a termination of employment of
10 an individual if it is determined under the
11 applicable State unemployment compensa-
12 tion law that the termination was due to
13 the misconduct of such individual.

14 “(B) CHANGES IN FORM OF BUSINESS.—
15 For purposes of paragraph (2)(C), the employ-
16 ment relationship between the taxpayer and an
17 employee shall not be treated as terminated—

18 “(i) by a transaction to which section
19 381(a) applies if the employee continues to
20 be employed by the acquiring corporation,
21 or

22 “(ii) by reason of a mere change in
23 the form of conducting the trade or busi-
24 ness of the taxpayer if the employee con-
25 tinues to be employed in such trade or

1 business and the taxpayer retains a sub-
2 stantial interest in such trade or business.

3 **“SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.**

4 “(a) WAGES.—For purposes of this subpart—

5 “(1) IN GENERAL.—The term ‘wages’ has the
6 same meaning as when used in section 51.

7 “(2) CERTAIN TRAINING AND EDUCATIONAL
8 BENEFITS.—

9 “(A) IN GENERAL.—The following
10 amounts shall be treated as wages paid to an
11 employee:

12 “(i) Any amount paid or incurred by
13 an employer which is excludable from the
14 gross income of an employee under section
15 127, but only to the extent paid or in-
16 curred to a person not related to the em-
17 ployer.

18 “(ii) In the case of an employee who
19 has not attained the age of 19, any
20 amount paid or incurred by an employer
21 for any youth training program operated
22 by such employer in conjunction with local
23 education officials.

24 “(B) RELATED PERSON.—A person is re-
25 lated to any other person if the person bears a

1 relationship to such other person specified in
2 section 267(b) or 707(b)(1), or such person and
3 such other person are engaged in trades or
4 businesses under common control (within the
5 meaning of subsections (a) and (b) of section
6 52). For purposes of the preceding sentence, in
7 applying section 267(b) or 707(b)(1), ‘10 per-
8 cent’ shall be substituted for ‘50 percent’.

9 “(b) CONTROLLED GROUPS.—For purposes of this
10 subpart—

11 “(1) all employers treated as a single employer
12 under subsection (a) or (b) of section 52 shall be
13 treated as a single employer for purposes of this
14 subpart, and

15 “(2) the credit (if any) determined under sec-
16 tion 1396 with respect to each such employer shall
17 be its proportionate share of the wages giving rise
18 to such credit.

19 “(c) CERTAIN OTHER RULES MADE APPLICABLE.—
20 For purposes of this subpart, rules similar to the rules
21 of section 51(k) and subsections (c), (d), and (e) of section
22 52 shall apply.

23 “(d) NOTICE OF AVAILABILITY OF ADVANCE PAY-
24 MENT OF EARNED INCOME CREDIT.—Each employer
25 shall take reasonable steps to notify all qualified zone em-

1 ployees of the availability to eligible individuals of receiv-
 2 ing advanced payments of the credit under section 32 (re-
 3 lating to the earned income credit).

4 **“Subpart B—Zone Resident Empowerment Savings**
 5 **Credit**

“Sec. 1398. Zone resident empowerment savings credit.

6 **“SEC. 1398. ZONE RESIDENT EMPOWERMENT SAVINGS**
 7 **CREDIT.**

8 “(a) GENERAL RULE.—For purposes of section 38,
 9 the amount of the zone resident empowerment savings
 10 credit determined under this section with respect to any
 11 employer for any taxable year is 50 percent of the quali-
 12 fied savings contributions for the taxable year.

13 “(b) QUALIFIED SAVINGS CONTRIBUTIONS.—For
 14 purposes of this section—

15 “(1) IN GENERAL.—The term ‘qualified savings
 16 contribution’ means any contribution by an employer
 17 to a defined contribution plan—

18 “(A) which is made on behalf of an em-
 19 ployee in connection with services performed by
 20 such employee while such employee is a quali-
 21 fied zone employee, and

22 “(B) with respect to which the employee
 23 has a nonforfeitable right.

24 “(2) LIMITATION BASED ON COMPENSATION.—

1 “(A) IN GENERAL.—The qualified savings
2 contributions taken into account with respect to
3 any qualified zone employee for any taxable
4 year shall not exceed an amount equal to 2 per-
5 cent of so much of the employee’s compensation
6 (as defined in section 414(s)) as does not
7 exceed \$35,000.

8 “(B) ZONE DESIGNATION IN EFFECT FOR
9 PARTIAL YEAR.—If a designation of an area as
10 an empowerment zone is in effect for less than
11 the entire taxable year, the \$35,000 amount
12 under subparagraph (A) shall be ratably re-
13 duced to reflect the portion of the year such
14 designation is not in effect.

15 “(3) CERTAIN CONTRIBUTIONS EXCLUDED.—
16 The term ‘qualified savings contribution’ shall not
17 include any contribution—

18 “(A) to a plan subject to the funding re-
19 quirements of section 412,

20 “(B) to a tax credit employee stock owner-
21 ship plan (as defined in section 409(a)) or to an
22 employee stock ownership plan (as defined in
23 section 4975(e)(7)),

24 “(C) to a stock bonus plan, or

1 “(D) which is an elective deferral (within
2 the meaning of section 402(g)(3)).

3 “(4) SIMPLIFIED EMPLOYEE PENSION.—A con-
4 tribution to an individual savings plan pursuant to
5 a simplified employee pension (as defined in section
6 408(k)) shall be treated as a contribution to a de-
7 fined contribution plan.

8 “(c) EMPLOYER REQUIREMENTS.—This section shall
9 apply to an employer for any taxable year only if—

10 “(1) the employer elects the application of this
11 section, and

12 “(2) the plan pursuant to which any qualified
13 savings contribution is made provides that any con-
14 tribution to such plan (whether or not a qualified
15 savings contribution) may be withdrawn by a quali-
16 fied zone employee as described in section 72(t)(2)
17 (B) or (D).

18 “(d) DEFINITIONS.—For purposes of this section—

19 “(1) QUALIFIED ZONE EMPLOYEE.—The term
20 ‘qualified zone employee’ has the meaning given such
21 term by section 1396(d).

22 “(2) DEFINED CONTRIBUTION PLAN.—The
23 term ‘defined contribution plan’ means a defined
24 contribution plan (as defined in section 414(i))

1 which is described in section 401(a) and includes a
2 trust exempt from tax under section 501(a).

3 “(e) TREATMENT OF PLANS.—A plan shall not be
4 treated as failing to meet any requirement of part I of
5 subchapter D of chapter 1 by reason of permitting with-
6 drawals required to be permitted under subsection (c)(2).

7 **“Subpart C—Depreciation and Other Incentives**

 “Sec. 1399. Depreciation benefits.

 “Sec. 1399A. Additional exclusion from volume cap for certain en-
 terprise zone facility bonds.

 “Sec. 1399B. Enterprise zone business.

8 **“SEC. 1399. DEPRECIATION BENEFITS.**

9 “(a) INCREASE IN EXPENSING UNDER SECTION
10 179.—

11 “(1) IN GENERAL.—In the case of an enterprise
12 zone business, for purposes of section 179—

13 “(A) qualified zone property shall be treat-
14 ed as section 179 property,

15 “(B) the limitation under section
16 179(b)(1) shall be increased by the lesser of—

17 “(i) \$50,000, or

18 “(ii) the cost of qualified zone prop-
19 erty placed in service during the taxable
20 year, and

21 “(C) section 179(b)(2) shall be applied by
22 substituting ‘by one-half of the amount by
23 which the cost of qualified zone property (other

1 than real property) and other section 179 prop-
 2 erty’ for ‘by the amount by which the cost of
 3 section 179 property’.

4 “(b) ACCELERATED DEPRECIATION.—

5 “(1) IN GENERAL.—For purposes of section
 6 168(a), with respect to qualified zone property of an
 7 enterprise zone business, the applicable recovery pe-
 8 riod shall be determined in accordance with the table
 9 contained in paragraph (2) in lieu of the table con-
 10 tained in section 168(c).

11 “(2) APPLICABLE RECOVERY PERIOD FOR
 12 QUALIFIED ZONE PROPERTY.—For purposes of para-
 13 graph (1)—

“In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

14 “(3) DEDUCTION ALLOWED IN COMPUTING
 15 MINIMUM TAX.—Paragraph (1) shall apply for pur-
 16 poses of determining alternative minimum taxable
 17 income under section 55.

18 “(c) QUALIFIED ZONE PROPERTY.—For purposes of
 19 this section—

1 “(1) IN GENERAL.—The term ‘qualified zone
2 property’ means any property to which section 168
3 applies (or would apply but for section 179) if—

4 “(A) such property was acquired by the
5 taxpayer by purchase (as defined in section
6 179(d)(2)) after the date on which the designa-
7 tion of the border empowerment zone took ef-
8 fect,

9 “(B) the original use of which in a border
10 empowerment zone commences with the tax-
11 payer, and

12 “(C) substantially all of the use of which
13 is in a border empowerment zone and is in the
14 active conduct of a trade or business by the tax-
15 payer in such zone.

16 “(2) SPECIAL RULE FOR SUBSTANTIAL REN-
17 OVATIONS.—In the case of any property which is
18 substantially renovated by the taxpayer, the require-
19 ments of subparagraphs (A) and (B) of paragraph
20 (1) shall be treated as satisfied. For purposes of the
21 preceding sentence, property shall be treated as sub-
22 stantially renovated by the taxpayer if, during any
23 24-month period beginning after the date on which
24 the designation of the border empowerment zone
25 took effect, additions to basis with respect to such

1 property in the hands of the taxpayer exceed the
2 greater of (i) an amount equal to the adjusted basis
3 at the beginning of such 24-month period in the
4 hands of the taxpayer, or (ii) \$5,000.

5 “(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION
6 TION PROPERTY.—The term ‘qualified zone prop-
7 erty’ does not include any property to which the al-
8 ternative depreciation system under section 168(g)
9 applies, determined—

10 “(A) without regard to section 168(g)(7)
11 (relating to election to use alternative deprecia-
12 tion system), and

13 “(B) after the application of section
14 280F(b) (relating to listed property with limited
15 business use).

16 “(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For
17 purposes of subsection (c)(1)(B), if property is sold and
18 leased back by the taxpayer within 3 months after the date
19 such property was originally placed in service, such prop-
20 erty shall be treated as originally placed in service not ear-
21 lier than the date on which such property is used under
22 the leaseback.

23 “(e) RECAPTURE.—Rules similar to the rules under
24 section 179(d)(10) shall apply with respect to any quali-

1 fied zone property of any business which ceases to be an
2 enterprise zone business.

3 **“SEC. 1399A. ADDITIONAL EXCLUSION FROM VOLUME CAP**
4 **FOR CERTAIN ENTERPRISE ZONE FACILITY**
5 **BONDS.**

6 “(a) IN GENERAL.—Section 1394(b)(5) shall be ap-
7 plied by substituting ‘75 percent’ for ‘50 percent’ in the
8 case of any bond described in section 1394(b)(1) issued
9 as part of an issue 95 percent or more of the net proceeds
10 (as defined in section 150(a)(3)) of which are used to pro-
11 vide qualified zone property the principal user of which
12 is any enterprise zone business if the ownership require-
13 ments of subsection (b) are met with respect to such
14 business.

15 “(b) OWNERSHIP REQUIREMENTS.—The ownership
16 requirements of this subsection are met with respect to
17 an enterprise zone business if—

18 “(1) in the case of a sole proprietorship, the
19 principal place of abode of the proprietor is in a bor-
20 der empowerment zone,

21 “(2) in the case of a corporation, more than 50
22 percent of the stock (by vote and value) in the cor-
23 poration is owned (directly or indirectly) by individ-
24 uals whose principal place of abode is in a border
25 empowerment zone, and

1 “(3) in the case of a partnership, more than 50
2 percent of the capital and profits interests in the
3 partnership is owned (directly or indirectly) by indi-
4 viduals whose principal place of abode is in a border
5 empowerment zone.

6 **“SEC. 1399B. ENTERPRISE ZONE BUSINESS DEFINED.**

7 “(a) IN GENERAL.—For purposes of this subpart, the
8 term ‘enterprise zone business’ means—

9 “(1) any qualified business entity, and

10 “(2) any qualified proprietorship.

11 “(b) QUALIFIED BUSINESS ENTITY.—For purposes
12 of this section, the term ‘qualified business entity’ means,
13 with respect to any taxable year, any corporation or part-
14 nership if for such year—

15 “(1) every trade or business of such entity is
16 the active conduct of a qualified business within a
17 border empowerment zone,

18 “(2) at least 80 percent of the total gross in-
19 come of such entity is derived from the active con-
20 duct of such business,

21 “(3) substantially all of the use of the tangible
22 property of such entity (whether owned or leased) is
23 within a border empowerment zone,

1 “(4) substantially all of the intangible property
2 of such entity is used in, and exclusively related to,
3 the active conduct of any such business,

4 “(5) substantially all of the services performed
5 for such entity by its employees are performed in a
6 border empowerment zone,

7 “(6) at least 35 percent of its employees are
8 residents of a border empowerment zone,

9 “(7) less than 5 percent of the average of the
10 aggregate unadjusted bases of the property of such
11 entity is attributable to collectibles (as defined in
12 section 408(m)(2)) other than collectibles that are
13 held primarily for sale to customers in the ordinary
14 course of such business, and

15 “(8) less than 5 percent of the average of the
16 aggregate unadjusted bases of the property of such
17 entity is attributable to nonqualified financial prop-
18 erty.

19 “(c) QUALIFIED PROPRIETORSHIP.—For purposes of
20 this section, the term ‘qualified proprietorship’ means,
21 with respect to any taxable year, any qualified business
22 carried on by an individual as a proprietorship if for such
23 year—

24 “(1) at least 80 percent of the total gross in-
25 come of such individual from such business is de-

1 rived from the active conduct of such business in a
2 border empowerment zone,

3 “(2) substantially all of the use of the tangible
4 property of such individual in such business (wheth-
5 er owned or leased) is within a border empowerment
6 zone,

7 “(3) substantially all of the intangible property
8 of such business is used in, and exclusively related
9 to, the active conduct of such business,

10 “(4) substantially all of the services performed
11 for such individual in such business by employees of
12 such business are performed in a border
13 empowerment zone,

14 “(5) at least 35 percent of such employees are
15 residents of a border empowerment zone,

16 “(6) less than 5 percent of the average of the
17 aggregate unadjusted bases of the property of such
18 individual which is used in such business is attrib-
19 utable to collectibles (as defined in section
20 408(m)(2)) other than collectibles that are held pri-
21 marily for sale to customers in the ordinary course
22 of such business, and

23 “(7) less than 5 percent of the average of the
24 aggregate unadjusted bases of the property of such

1 individual which is used in such business is attrib-
2 utable to nonqualified financial property.

3 For purposes of this subsection, the term ‘employee’ in-
4 cludes the proprietor.

5 “(d) QUALIFIED BUSINESS.—For purposes of this
6 section—

7 “(1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the term ‘qualified business’
9 means any trade or business.

10 “(2) RENTAL OF REAL PROPERTY.—The rental
11 to others of real property located in a border
12 empowerment zone shall be treated as a qualified
13 business if and only if—

14 “(A) the property is not residential rental
15 property (as defined in section 168(e)(2)), and

16 “(B) at least 50 percent of the gross rental
17 income from the real property is from enter-
18 prise zone businesses.

19 “(3) RENTAL OF TANGIBLE PERSONAL PROP-
20 erty.—The rental to others of tangible personal
21 property shall be treated as a qualified business if
22 and only if substantially all of the rental of such
23 property is by enterprise zone businesses or by resi-
24 dents of a border empowerment zone.

1 “(4) TREATMENT OF BUSINESS HOLDING IN-
2 TANGIBLES.—The term ‘qualified business’ shall not
3 include any trade or business consisting predomi-
4 nantly of the development or holding of intangibles
5 for sale or license.

6 “(5) CERTAIN BUSINESSES EXCLUDED.—The
7 term ‘qualified business’ shall not include—

8 “(A) any trade or business consisting of
9 the operation of any facility described in section
10 144(c)(6)(B), and

11 “(B) any trade or business the principal
12 activity of which is farming (within the meaning
13 of subparagraphs (A) or (B) of section
14 2032A(e)(5)), but only if, as of the close of the
15 preceding taxable year, the sum of—

16 “(i) the aggregate unadjusted bases
17 (or, if greater, the fair market value) of
18 the assets owned by the taxpayer which are
19 used in such a trade or business, and

20 “(ii) the aggregate value of assets
21 leased by the taxpayer which are used in
22 such a trade or business,
23 exceeds \$500,000.

24 For purposes of subparagraph (B), rules similar to
25 the rules of section 1397(b) shall apply.

1 “(e) NONQUALIFIED FINANCIAL PROPERTY.—For
 2 purposes of this section, the term ‘nonqualified financial
 3 property’ means debt, stock, partnership interests, op-
 4 tions, futures contracts, forward contracts, warrants, no-
 5 tional principal contracts, annuities, and other similar
 6 property specified in regulations; except that such term
 7 shall not include—

8 “(1) reasonable amounts of working capital
 9 held in cash, cash equivalents, or debt instruments
 10 with a term of 18 months or less, or

11 “(2) debt instruments described in section
 12 1221(4).

13 **“PART IV—REGULATIONS**

 “Sec. 1399C. Regulations.

14 **“SEC. 1399C. REGULATIONS.**

15 “The Secretary shall prescribe such regulations as
 16 may be necessary or appropriate to carry out the purposes
 17 of parts II and III, including—

18 “(1) regulations limiting the benefit of parts II
 19 and III in circumstances where such benefits, in
 20 combination with benefits provided under other Fed-
 21 eral programs, would result in an activity being 100
 22 percent or more subsidized by the Federal Govern-
 23 ment,

1 “(2) regulations preventing abuse of the provi-
2 sions of parts II and III, and

3 “(3) regulations dealing with inadvertent fail-
4 ures of entities to be enterprise zone businesses.”

5 (b) CLERICAL AMENDMENT.—The table of sub-
6 chapters for chapter 1 is amended by inserting after the
7 item relating to subchapter T the following new item:

“Subchapter U. Designation and treatment of border
empowerment zones and border enterprise commu-
nities.”

8 **SEC. 3. EXPANSION OF TARGETED JOBS CREDIT.**

9 (a) ALLOWANCE OF CREDIT FOR HIRING BORDER
10 EMPOWERMENT ZONE RESIDENT.—Paragraph (1) of sec-
11 tion 51(d) (defining members of targeted groups) is
12 amended by striking “or” at the end of subparagraph (I),
13 by striking the period at the end of subparagraph (J) and
14 inserting “, or”, and by adding at the end the following
15 new subparagraph:

16 “(K) an economically disadvantaged border
17 empowerment zone resident.”

18 (b) ECONOMICALLY DISADVANTAGED
19 EMPOWERMENT ZONE RESIDENT.—Section 51(d) is
20 amended by redesignating paragraphs (13) through (16)
21 as paragraphs (14) through (17), respectively, and by in-
22 serting after paragraph (12) the following new paragraph:

23 “(13) ECONOMICALLY DISADVANTAGED BOR-
24 DER EMPOWERMENT ZONE RESIDENT.—The term

1 ‘economically disadvantaged border empowerment
2 zone resident’ means an individual—

3 “(A) whose principal place of abode while
4 performing services for the employer is within a
5 border empowerment zone, and

6 “(B) who is certified by the designated
7 local agency as being a member of an economi-
8 cally disadvantaged family (as determined
9 under paragraph (11)).

10 Such term shall not include a qualified zone em-
11 ployee (as defined in section 1396(d) without regard
12 to paragraph (2) thereof).”

13 (c) CONFORMING AMENDMENT.—Subparagraph (C)
14 of section 51(d)(12) is amended by striking “paragraph
15 (14)” and inserting “paragraph (15)”.

16 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

17 (a) CERTAIN CREDITS PART OF GENERAL BUSINESS
18 CREDIT.—

19 (1) Subsection (b) of section 38 (relating to
20 current year business credit) is amended by striking
21 “plus” at the end of paragraph (7), by striking the
22 period at the end of paragraph (8) and inserting a
23 comma, and by adding at the end the following new
24 paragraphs:

1 “(9) the empowerment zone employment credit
2 determined under section 1396(a), plus

3 “(10) the zone resident empowerment savings
4 credit determined under section 1398.”

5 (2) Subsection (d) of section 39 is amended by
6 adding at the end the following new paragraph:

7 “(4) ENTERPRISE ZONE CREDITS.—No portion
8 of the unused business credit which is attributable to
9 the credit determined under section 1396 (relating
10 to empowerment zone employment credit) or section
11 1398 (relating to zone resident empowerment sav-
12 ings credit) may be carried to any taxable year end-
13 ing before January 1, 1994.”

14 (b) DENIAL OF DEDUCTION FOR PORTION OF WAGES
15 EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CRED-
16 IT.—

17 (1) Subsection (a) of section 280C (relating to
18 rule for targeted jobs credit) is amended—

19 (A) by striking “the amount of the credit
20 determined for the taxable year under section
21 51(a)” and inserting “the sum of the credits
22 determined for the taxable year under sections
23 51(a) and 1396(a)”, and

1 (B) by striking “TARGETED JOBS CRED-
2 IT” in the subsection heading and inserting
3 “EMPLOYMENT CREDITS”.

4 (2) Subsection (c) of section 196 (relating to
5 deduction for certain unused business credits) is
6 amended by striking “and” at the end of paragraph
7 (4), by striking the period at the end of paragraph
8 (5) and inserting “, and”, and by adding at the end
9 the following new paragraph:

10 “(6) the empowerment zone employment credit
11 determined under section 1396(a).”

12 (c) EMPLOYMENT AND SAVINGS CREDITS MAY OFF-
13 SET 25 PERCENT OF MINIMUM TAX.—

14 (1) IN GENERAL.—Section 38(c) (relating to
15 limitation based on amount of tax) is amended by
16 redesignating paragraph (2) as paragraph (3) and
17 by inserting after paragraph (1) the following new
18 paragraph:

19 “(2) EMPOWERMENT ZONE CREDITS MAY OFF-
20 SET 25 PERCENT OF MINIMUM TAX.—

21 “(A) IN GENERAL.—In the case of the
22 empowerment zone credits—

23 “(i) this section and section 39 shall
24 be applied separately with respect to such
25 credits, and

1 “(ii) for purposes of applying para-
2 graph (1) to such credits—

3 “(I) 75 percent of the tentative
4 minimum tax shall be substituted for
5 the tentative minimum tax under sub-
6 paragraph (A) thereof, and

7 “(II) the limitation under para-
8 graph (1) (as modified by subclause
9 (I)) shall be reduced by the credit al-
10 lowed under subsection (a) for the
11 taxable year (other than the
12 empowerment zone credits).

13 “(B) EMPOWERMENT ZONE CREDITS.—

14 For purposes of this paragraph, the term
15 ‘empowerment zone credits’ means the portion
16 of the credit under subsection (a) which is at-
17 tributable to the credits determined under sec-
18 tion 1396 (relating to empowerment zone em-
19 ployment credit) and section 1398 (relating to
20 zone resident empowerment savings credit).”

21 (d) CHANGES RELATING TO EMPOWERMENT ZONE
22 RESIDENT EMPOWERMENT SAVINGS CREDIT.—

23 (1) DISALLOWANCE OF DEDUCTION.—Section
24 404 (relating to deduction for certain employer con-

1 tributions) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(m) COORDINATION WITH EMPOWERMENT ZONE
4 CREDIT.—No deduction shall be allowed under this sec-
5 tion for any qualified employer contribution taken into ac-
6 count in computing the credit determined under section
7 1398.”

8 (2) PENALTY-FREE DISTRIBUTIONS.—

9 (A) IN GENERAL.—Paragraph (2) of sec-
10 tion 72(t) (relating to exceptions to 10-percent
11 additional tax on early distributions from quali-
12 fied retirement plans) is amended by adding at
13 the end thereof the following new subpara-
14 graph:

15 “(D) DISTRIBUTIONS FROM CERTAIN
16 PLANS FOR FIRST HOME PURCHASES OR EDU-
17 CATIONAL EXPENSES.—

18 “(i) IN GENERAL.—Distributions to
19 an individual from a qualified retirement
20 plan—

21 “(I) which are qualified first-time
22 homebuyer distributions (as defined in
23 paragraph (6)),

24 “(II) to the extent such distribu-
25 tions do not exceed the qualified high-

1 er education expenses (as defined in
2 paragraph (7)) of the taxpayer for the
3 taxable year, or

4 “(III) to the extent such distribu-
5 tions do not exceed an amount equal
6 to the aggregate investment made by
7 the taxpayer during the taxable year
8 in any enterprise zone business (as
9 defined in section 1399B) that meets
10 the ownership requirements of section
11 1399A(b).

12 “(ii) LIMITATION.—Clause (i) shall
13 not apply to the extent that the aggregate
14 amount of the distributions described in
15 clause (i) is greater than the excess of—

16 “(I) the qualified savings con-
17 tributions (as defined in section
18 1398(b)) of the taxpayer, and any
19 earnings thereon, over

20 “(II) the aggregate amounts to
21 which clause (i) and the last sentence
22 of paragraph (3)(A) applied for pre-
23 ceding taxable years.”

1 (B) DEFINITIONS.—Section 72(t) is
2 amended by adding at the end thereof the fol-
3 lowing new paragraphs:

4 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-
5 TRIBUTIONS.—For purposes of paragraph
6 (2)(D)(i)(I)—

7 “(A) IN GENERAL.—The term ‘qualified
8 first-time homebuyer distribution’ means any
9 payment or distribution received by an individ-
10 ual to the extent such payment or distribution
11 is used by the individual before the close of the
12 60th day after the day on which such payment
13 or distribution is received to pay qualified ac-
14 quisition costs with respect to a principal resi-
15 dence of a first-time homebuyer who is such in-
16 dividual or the spouse of such individual.

17 “(B) QUALIFIED ACQUISITION COSTS.—
18 For purposes of this paragraph, the term
19 ‘qualified acquisition costs’ means the costs of
20 acquiring, constructing, or reconstructing a res-
21 idence. Such term includes any usual or reason-
22 able settlement, financing, or other closing
23 costs.

1 “(C) FIRST-TIME HOMEBUYER; OTHER
2 DEFINITIONS.—For purposes of this para-
3 graph—

4 “(i) FIRST-TIME HOMEBUYER.—The
5 term ‘first-time homebuyer’ means any in-
6 dividual if—

7 “(I) such individual (and if mar-
8 ried, such individual’s spouse) had no
9 present ownership interest in a prin-
10 cipal residence during the 3-year pe-
11 riod ending on the date of acquisition
12 of the principal residence to which
13 this paragraph applies, and

14 “(II) subsection (a)(6), (h), or
15 (k) of section 1034 did not suspend
16 the running of any period of time
17 specified in section 1034 with respect
18 to such individual on the day before
19 the date the distribution is applied
20 pursuant to subparagraph (A)(ii).

21 “(ii) PRINCIPAL RESIDENCE.—The
22 term ‘principal residence’ has the same
23 meaning as when used in section 1034.

24 “(iii) DATE OF ACQUISITION.—The
25 term ‘date of acquisition’ means the date—

1 “(I) on which a binding contract
2 to acquire the principal residence to
3 which subparagraph (A) applies is en-
4 tered into, or

5 “(II) on which construction or re-
6 construction of such a principal resi-
7 dence is commenced.

8 “(D) SPECIAL RULE WHERE DELAY IN AC-
9 QUISSION.—If any distribution from any quali-
10 fied retirement plan fails to meet the require-
11 ments of subparagraph (A) solely by reason of
12 a delay or cancellation of the purchase or con-
13 struction of the residence, the amount of the
14 distribution may be recontributed to the plan
15 from which it was distributed within 120 days
16 after the date of such distribution.

17 “(7) QUALIFIED HIGHER EDUCATION EX-
18 PENSES.—For purposes of paragraph
19 (2)(D)(ii)(II)—

20 “(A) IN GENERAL.—The term ‘qualified
21 higher education expenses’ means tuition, fees,
22 books, supplies, and equipment required for the
23 enrollment or attendance of—

24 “(i) the taxpayer,

25 “(ii) the taxpayer’s spouse, or

1 “(iii) the taxpayer’s child (as defined
2 in section 151(c)(3)) or grandchild,
3 at an eligible educational institution (as defined
4 in section 135(c)(3)).

5 “(B) COORDINATION WITH SAVINGS BOND
6 PROVISIONS.—The amount of qualified higher
7 education expenses for any taxable year shall be
8 reduced by any amount excludable from gross
9 income under section 135.”.

10 (C) CONFORMING AMENDMENTS.—

11 (i) Subparagraph (B) of section
12 72(t)(2) is amended by striking “or (C)”
13 and inserting “, (C), or (D)”.

14 (ii) Section 401(k)(2)(B)(i) is amend-
15 ed by striking “or” at the end of subclause
16 (III), by striking “and” at the end of
17 subclause (IV) and inserting “or”, and by
18 inserting after subclause (IV) the following
19 new subclause:

20 “(V) subject to the limitation of
21 section 72(t)(2)(D)(ii), the date on
22 which qualified first-time homebuyer
23 distributions (as defined in section
24 72(t)(6)), distributions for qualified
25 higher education expenses (as defined

1 in section 72(t)(7)), or distributions
2 for investments described in section
3 72(t)(2)(D)(i)(III) are made, and”.

4 (e) AMENDMENT OF TARGETED JOBS CREDIT.—
5 Subparagraph (A) of section 51(i)(1) is amended by in-
6 serting “, or, if the taxpayer is an entity other than a
7 corporation, to any individual who owns, directly or indi-
8 rectly, more than 50 percent of the capital and profits in-
9 terests in the entity,” after “of the corporation”.

10 (f) CARRYOVERS.—Subsection (c) of section 381 (re-
11 lating to carryovers in certain corporate acquisitions) is
12 amended by adding at the end the following new para-
13 graph:

14 “(26) ENTERPRISE ZONE PROVISIONS.—The
15 acquiring corporation shall take into account (to the
16 extent proper to carry out the purposes of this sec-
17 tion and subchapter U, and under such regulations
18 as may be prescribed by the Secretary) the items re-
19 quired to be taken into account for purposes of sub-
20 chapter U in respect of the distributor or transferor
21 corporation.”

22 **SEC. 5. EFFECTIVE DATE.**

23 The amendments made by this Act shall take effect
24 on the date of the enactment of this Act.



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